

# ORIGINAL

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

MAR 3 12 02 PM '00

CHIEF CLERK'S OFFICE.

00-0203

2. Joint Petitioner HTI represents that it is a certified provider of local dialtone service, authorized to provide service in the State of Illinois and that this adoption will cover only services in the State of Illinois.

3. Pursuant to Section 252(i) of the Telecommunications Act of 1996 (“Federal Act”), HTI notified GTE that it desired to adopt the terms of the Interconnection Agreement (the “Agreement”) between GTE and US Xchange of Illinois, L.L.C., approved by the Illinois Commerce Commission (the “Commission”) in Docket No. 98-NA-042. Subsequent to this, GTE and HTI signed separate letters relating to HTI’s adoption of the terms of the Agreement. A copy of said letters are attached as Exhibit 1.

4. Section 252(i) of the Federal Act provides:

(i) Availability to other telecommunications carriers:

A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

The Commission approved the Agreement pursuant to Section 252(e) of the Federal Act. Accordingly, per Section 252(i) of the Federal Act, HTI has the right to adopt the Agreement’s terms.’

5. Subject to the terms of the letters attached as Exhibit 1, there are no outstanding issues between GTE and HTI relating to such adoption,


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<sup>1</sup> GTE is submitting this petition pursuant to Section 252(i) of the Telecommunications Act of 1996 to notify the Commission of the adoption described herein. With respect to the prior applications of this nature, the Commission has elected to treat the adopted terms as a negotiated agreement. Because Section 252(i) requires the adoption to be implemented as a matter of law, GTE does not agree with the Commission’s characterization of these agreements as negotiated agreement. Nonetheless, GTE shall abide by the adopted terms in accordance with, and subject to, the adoption letter executed by GTE that is being submitted with this application as Exhibit 1.

6 . As stated in the attached verified Statement in Support of an Adoption of Interconnection Agreement, attached as Exhibit 2, GTE will continue to make the arrangements set forth in the Agreement available on the same terms and conditions to any duly authorized telecommunications carrier operating within the State of Illinois to the extent required and permitted under Section 252(i) of the Federal Act. Therefore, this filing is not discriminatory.

THEREFORE, GTE and HTI respectfully submit this Adoption of an Interconnection Agreement on this 2 day of March, 2000.

GTE NORTH INCORPORATED  
GTE SOUTH INCORPORATED

By: 

Tracy D. Pagliara  
GTE Service Corporation  
600 Hidden Ridge  
HQE03J36  
Irving, TX 75038

Tel. No. (972) 718-6362  
Fax No. (972) 718-1250

Douglas Dziak  
HUNTON & WILLIAMS  
1900 K Street, N.W.  
Suite 1200  
Washington, D.C. 20006  
Tel. No.: (202) 955-1880  
Fax No.: (202) 778-2201

ATTORNEYS FOR GTE NORTH  
INCORPORATED AND GTE SOUTH  
INCORPORATED

HOME TELENETWORKS, INC.

By: 

Mr. Eric Schmidt  
Home TeleNetworks, Inc.  
501 N. Douglas, PO Box 215  
St. Jacob, IL 62281

Tel. No. (618) 644-2111  
Fax No. (618) 644-9525

FOR HOME TELENETWORKS, INC.

STATE OF ILLINOIS

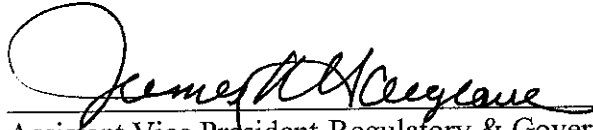
COUNTY OF \_\_\_\_\_

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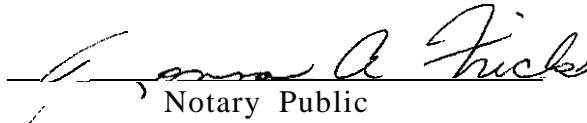
VERIFICATION

James R. Hargrave, being first duly sworn, deposes and states that he is the Assistant Vice President-Regulatory & Governmental Affairs for GTE North Incorporated, and as such; that he is authorized by GTE North Incorporated and GTE South Incorporated to make this verification; that he has read the above and foregoing Statement in Support of an Adoption of an Interconnection Agreement Among GTE North Incorporated, GTE South Incorporated, and Home TeleNetworks, Inc. and knows the contents thereof; and that said contents are true to the best of his knowledge, information and belief.



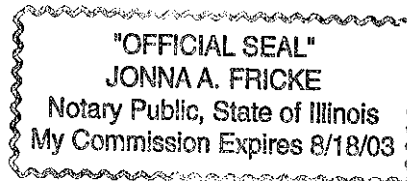
Assistant Vice President-Regulatory & Governmental  
Affairs

Subscribed and sworn to before me, a notary public for the State of Illinois this 2 day  
of MARCH, 2000.



Notary Public

My Commission Expires: 8/18/03



STATE OF Illinois )  
 ) SS VERIFICATION  
COUNTY OF Madison )

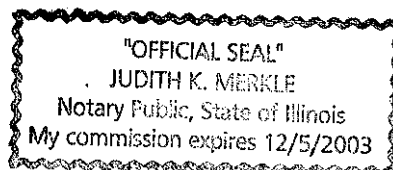
Eric Schmidt, being first duly sworn, deposes and states that he is the  
Vice President for Home TeleNetworks, Inc.; that he is  
authorized by Home TeleNetworks, Inc. to make this verification; that he has read the  
above and foregoing Joint Petition Regarding Adoption of an Interconnection Agreement  
Among GTE North Incorporated, GTE South Incorporated, and Home TeleNetworks,  
Inc. and knows the contents thereof; and that said contents are true to the best of his  
knowledge, information and belief.

Eric Schmidt  
Vice President

Subscribed and sworn to before me, a notary public for the State of IL i s 12th  
day of Feb, 2000.

Judith K. Merkle  
Notary Public

My Commission Expires:



Connie Nicholas  
Assistant Vice President  
Wholesale Markets-Interconnection



GTE Network  
Services

HQE03B28  
600 Hidden Ridge  
P.O. Box 152092  
Irving, TX 75036  
9727154566  
FAX 972/719-1523

November 29, 1999

Eric Schmidt  
Home TeleNetworks, Inc.  
501 N. Douglas, PO Box 215  
St. Jacob, IL 62281

Dear Mr. Schmidt:

We have received your letter stating that, under Section 252(i) of the Telecommunications Act of 1996, you wish to adopt the terms of the Interconnection Agreement between US Xchange of Illinois, L.L.C. and GTE that was approved by the Commission as an effective agreement in the State of Illinois in Docket No. 98-NA-042 (Terms)<sup>1</sup>. The terms provide for the election by US Xchange of Illinois, L.L.C. of certain additional provisions from a GTE arbitrated agreement ("Arbitrated Provisions"). I understand you have a copy of the Terms.

Please be advised that our position regarding the adoption of the Terms is as follows.

On January 25, 1999, the Supreme Court of the United States ("Court") issued its decision on the appeals of the Eighth Circuit's decision in *Iowa Utilities Board*. Specifically, the Supreme Court vacated Rule 51.319 of the FCC's First Report and Order, FCC 96-325, 61 Fed. Reg. 45476 (1996) and modified several of the FCC's and the Eighth Circuit's rulings regarding unbundled network elements and pricing requirements under the Act. *AT&T Corp. v. Iowa Utilities Board*, No. 97-826, 1999 U.S. LEXIS 903 (1999).

Three aspects of the Court's decision are worth noting. First, the Court upheld on statutory grounds the FCC's jurisdiction to establish rules implementing the pricing provisions of the Act. The Court, though, did not address the substantive validity of the FCC's pricing rules. This issue will be decided by the Eighth Circuit on remand.

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<sup>1</sup> \*These "agreements" are not agreements in the generally accepted understanding of that term. GTE was required to accept these agreements, which were required to reflect the then-effective FCC rules.

Second, the Court held that the FCC, in requiring ILECs to make available all UNEs, had failed to implement section 251(d)(2) of the Act, which requires the FCC to apply a "necessary" or "impair" standard in determining the network elements ILECs must unbundle. The Court ruled that the FCC had improperly failed to consider the availability of alternatives outside the ILEC's network and had improperly assumed that a mere increase in cost or decrease in quality would suffice to require that the ILEC provide the UNE. The Court therefore vacated in its entirety the FCC rule setting forth the UNEs that the ILEC is to provide. The FCC must now promulgate new UNE rules that comply with the Act.<sup>2</sup> As a result, any provisions in the Terms requiring GTE to provide UNEs are nullified.

Third, the Court upheld the FCC rule forbidding ILECs from separating elements that are already combined (Rule 315(b)), but explained that its remand of Rule 319 "may render the incumbents' concern on [sham unbundling] academic." In other words, the Court recognized that ILEC concerns over UNE platforms could be mooted if ILECs are not required to provide all network elements: "If the FCC on remand makes fewer network elements unconditionally available through the unbundling requirement, an entrant will no longer be able to lease every component of the network."

The Terms which Home TeleNetworks, Inc., "Home" seeks to adopt does *not* reflect the Court's decision, and any provision in the Terms that is inconsistent with the decision is nullified.

GTE anticipates that after the FCC issues new final rules on UNEs, this matter may be resolved. In the interim, GTE would prefer not to engage in the arduous task of reforming agreements to properly reflect the current status of the law and then to repeat the same process later after the new FCC rules are in place. Without waiving any rights, GTE proposes that the parties agree to hold off amending (or incorporating the impact of the decision into) the Terms and let the section 252(i) adoption proceed by maintaining the status quo until final new FCC rules are implemented (the "New Rules"), subject to the following package of interdependent terms:

1. GTE will continue to provide all UNEs called for under the Terms until the FCC issues the New Rules even though it is not legally obligated to do so.
2. Likewise, Home agrees not to seek UNE "platforms," or "already bundled" combinations of UNEs.
3. If the FCC does not issue New Rules prior to the expiration of the initial term of the Terms, GTE will agree to extend any new interconnection arrangement between the parties to the terms of this proposal until the FCC issues its New Rules.

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<sup>2</sup> \*On November 5, 1999, the FCC released an order regarding a new list of UNEs that ILECs must offer to CLECs. At this time, the order is still not effective. GTE will comply with the requirements of this order when it becomes effective. Notwithstanding this, GTE does not waive, and hereby expressly reserves, the right to challenge the legality of this order.

4. By making this proposal (and by agreeing to any settlement or contract modifications that reflect this proposal), GTE does not waive any of its rights, including its rights to seek recovery of its actual costs and a sufficient, explicit universal service fund. Nor does GTE waive its position that, under the Court's decision, it is not required to provide UNEs unconditionally. Moreover, GTE does not agree that the UNE rates set forth in any agreement are just and reasonable and in accordance with the requirements of sections 251 and 252 of Title 47 of the United States Code.
5. The provisions of the contract that might be interpreted to require reciprocal compensation or payment as local traffic from GTE to the telecommunications carrier for the delivery of traffic to the Internet are not available for adoption and are not a part of the 252(i) agreement pursuant to FCC Rule 809 and paragraphs 1317 and 1318 of the First Report and Order.

GTE believes that the first four conditions above are adequately explained by the first part of this letter. The reason for the last condition is the FCC gave the ILECs the ability to except 252(i) adoptions in those instances where the cost of providing the service to the requesting carrier is higher than that incurred to serve the initial carrier or there is a technical incompatibility issue. The issue of reciprocal compensation for traffic destined for the Internet falls within FCC Rule 809. GTE never intended for Internet traffic passing through a telecommunications carrier to be included within the definition of local traffic and the corresponding obligation of reciprocal compensation. Despite the foregoing, some forums have interpreted the issue to require reciprocal compensation to be paid. This produces the situation where the cost of providing the service is not cost based under Rule 809 or paragraph 1318 of the First report and Order. As a result, that portion of the contract pertaining to reciprocal compensation is not available under this 252(i) adoption. In its place are provisions that exclude ISP Traffic from reciprocal compensation. Specifically, the definition of "Local Traffic" includes this provision: "Local Traffic excludes information service provider ("ISP") traffic (i.e., Internet, 900 – 976, etc)".

In sum, GTE's proposal as described above would maintain the status quo until the legal landscape is settled.

Home's adoption of the US Xchange of Illinois, L.L.C. Terms shall become effective upon filing of this letter with the Illinois Commerce Commission and remain in effect no longer than the date the US Xchange of Illinois, L.L.C. Terms are terminated. The US Xchange of Illinois, L.L.C. arbitrated agreement is currently scheduled to expire on February 3, 2001.



Eric Schmidt  
November 29, 1999  
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As these Terms are being adopted by you pursuant to your statutory rights under section 252(i), GTE does not provide the Terms to you as either a voluntary or negotiated agreement. The filing and performance by GTE of the Terms does not in any way constitute a waiver by GTE of its position as to the illegality or unreasonableness of certain Arbitrated Provisions or a portion thereof, nor does it constitute a waiver by GTE of all rights and remedies it may have to seek review of the Arbitrated Provisions, or to petition the Commission, other administrative body, or court for reconsideration or reversal of any determination made by the Commission pursuant with respect to the Arbitrated Provisions, or to seek review in any way of any provisions included in these Terms as a result of Home's 252(i) election.

Nothing herein shall be construed as or is intended to be a concession or admission by either GTE or Home that any Arbitrated Provisions comply with the rights and duties imposed by the Telecommunications Act of 1996, the decision of the FCC and the Commissions, the decisions of the courts, or other law, and both GTE and Home expressly reserve their full right to assert and pursue claims arising from or related to the Arbitrated Provisions. GTE contends that certain provisions of the Terms may be void or unenforceable as a result of the Court's decision of January 25, 1999 and the remand of the pricing rules to the United States Eighth Circuit Court of Appeals.

Should Home attempt to apply such conflicting provisions, GTE reserves its rights to seek appropriate legal and/or equitable relief. Should any provision of the Terms be modified, such modification would likewise automatically apply to this 252(i) adoption.

Please indicate by your countersignature on this letter your understanding of and commitment to the following three points:

- (A) Home adopts the Terms of the US Xchange of Illinois, L.L.C. agreement for interconnection with GTE and in applying the Terms, agrees that Home be substituted in place of US Xchange of Illinois, L.L.C. in the Terms wherever appropriate.
- (B) Home requests that notice to Home as may be required under the Terms shall be provided as follows:

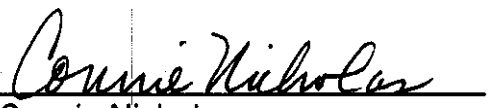
To : Home TeleNetworks, Inc.  
Attention: Eric Schmidt  
501 N. Douglas, PO Box 215  
St. Jacob, IL 62281  
Telephone number: 618/644-2111  
FAX number: 618/644-9525

Eric Schmidt  
November 29, 1999  
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- (C) Home represents and warrants that it is a certified provider of local dialtone service in the State of Illinois, and that its adoption of the Terms will cover services in the State of Illinois only.

Sincerely,

GTE North Incorporated  
GTE South Incorporated

  
Connie Nicholas  
Assistant Vice President  
Wholesale Markets-Interconnection

Reviewed and countersigned as to points A, B, and C only:

Home TeleNetworks, Inc.

---

Eric Schmidt

c: D. Dye - HQE03B73 - Irving, TX



GVNW CONSULTING, INC.

3220 PLEASANT RUN  
SPRINGFIELD, IL 62707  
TEL 217.698.2700  
FAX 217.698.2715  
www.gvnw.com

January 26, 2000

Dina Dye  
GTE Network Services  
HQEO3B73  
600 Hidden Ridge  
P.O. 152092  
Irving, TX 75038

**Re: Home TeleNetworks, Inc.**  
**Adoption of GTE/US Xchange Interconnection Agreement**

As an authorized representative of Home TeleNetworks, Inc. ("Home"), I have been directed to inform you that, pursuant to Section 252(i) of the Telecommunications Act, it is the intent of Home to adopt the GTE/US Xchange interconnection agreement that was approved by the Illinois Commerce Commission ("the Commission") in Docket 98 NA-042.

However, Home will not sign the adoption letter that you sent to Eric Schmidt on November 29, 1999 due to the fact that GTE's position on its unbundling requirements is inconsistent with the current regulatory environment. Specifically, your letter refers to a time in which the FCC UNE rules were vacated by the Supreme Court, yet ignores the fact that the FCC has recently reissued its UNE rules. Since the new UNE rules require GTE to unbundle all of the elements set forth in the agreement, GTE is required, pursuant to Section 252(i), to abide by all of UNE terms and conditions set forth in the adopted agreement.

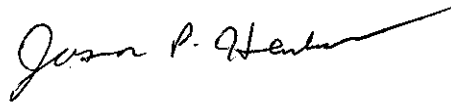
In addition, Home will not sign the adoption letter because to do so may cause Home to forfeit any reciprocal compensation payments to which it may be entitled for terminating calls to ISPs. Specifically, the agreement states that the ultimate decision as to whether reciprocal compensation applies to calls terminated to ISPs shall be left up to the courts (Article IV 3.1.1), whereas your proposed adoption letter (point 5 on page 3) would require Home to forfeit all reciprocal compensation payments for calls terminated to ISPs even if the Supreme Court rules that reciprocal compensation applies to such calls.

Based on the foregoing, it is Home's intent to adopt the GTE/US Xchange agreement in its entirety. Home neither accepts nor acknowledges any deviations from the existing GTE/US Xchange agreement other than those minimal changes, such as changing company names, necessary to ensure that

the agreement is applicable to Home. Accordingly, Home fully expects GTE to provide services to Home in accordance with the terms and conditions of the GTE/US Xchange Agreement, including all amendments, and hereby expressly reserves its right to seek enforcement of those terms and conditions.

In order to ensure that there is no unnecessary delay in Home's provision of competitive services, please file the agreement and this letter with the Commission by February 9, 2000.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason P. Hendricks", with a long, sweeping horizontal line extending to the right.

Jason P. Hendricks  
Authorized Representative

cc: Eric Schmidt, HomeTeleNetworks, Inc.

1. Home adopts the Terms of the US Xchange of Illinois, L.L.C. agreement for interconnection with GTE and in applying the Terms, agrees that Home be substituted in place of US Xchange of Illinois, L.L.C. in the Terms wherever appropriate.
2. Home requests notice to be sent to Home as may be required under the Terms shall be provided as follows:

To: Home TeleNetworks, Inc.  
Attention: Eric Schmidt  
501 N. Douglas, PO Box 215  
St. Jacob, IL 62281  
Telephone number: 618/644-2111  
Fax number: 618/644-9525
3. Home represents and warrants that it is a certified provider of local dialtone service in the state of Illinois, and that its adoption of the terms will cover services in the State of Illinois only.



Eric Schmidt  
Home TeleNetworks, Inc.

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

GTE NORTH INCORPORATED, )  
 GTE SOUTH INCORPORATED, AND )  
 HOME TELENETWORKS, INC. )  
 )  
 )  
 Joint Petition of GTE North Incorporated, )  
 GTE South Incorporated, and )  
 Home TeleNetworks, Inc. For Adoption )  
 Pursuant To 47 U.S.C. § 252 (i) )  
 Regarding Adoption )  
 of an Interconnection Agreement )

STATEMENT IN SUPPORT OF  
ADOPTION OF AN INTERCONNECTION AGREEMENT  
AMONG GTE NORTH INCORPORATED,  
GTE SOUTH INCORPORATED AND HOME TELENETWORKS, INC.

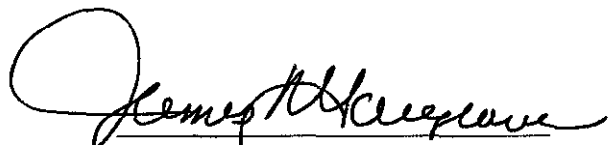
GTE North Incorporated and GTE South Incorporated, Joint Petitioners herein, make the following verified Statement in Support of Adoption of an Interconnection Agreement Among GTE North Incorporated, GTE South Incorporated and Home TeleNetworks, Inc.

1. Pursuant to Section 252(i) of the Telecommunications Act of 1996 (the "Federal Act"), Home TeleNetworks, Inc. ("HTI") notified GTE North Incorporated and GTE South Incorporated (collectively, "GTE") that it desired to adopt the terms of the Interconnection Agreement ("Agreement") between GTE and US Xchange of Illinois, L.L.C. approved by the Illinois Commerce Commission in Docket No. 98-NA-042. Subsequent to this, GTE and HTI signed adoption letters relating to HTI's adoption of the terms of the Agreement.
2. GTE will continue to make the arrangements set forth in the Agreement available on the same terms and conditions to any duly authorized telecommunications carrier operating

territories within the State of Illinois to the extent required and permitted under Section 252(i) of the Federal Act. Thus, this filing is not discriminatory.

GTE North Incorporated and GTE South Incorporated respectfully submit the Adoption of an *Interconnection Agreement Among GTE North Incorporated, GTE South Incorporated, and Home TeleNetworks, Inc.*

Respectfully submitted this 2 day of MARCH.

  
JAMES R. HARGRAVE  
Assistant Vice President-Regulatory  
& Governmental Affairs